

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY

& EXHIBITS

OF

DAWN M. HIPPIE

FEBRUARY 6, 2019



DOCKET NO. 2018-364-WS

**Stephen and Beverly Noller and Michael and Nancy Halwig,
Complainants/Petitioners v. Daufuskie Island Utility Company,
Incorporated, Defendant/Respondent**

DIRECT TESTIMONY AND EXHIBITS OF

DAWN M. HIPPI

ON BEHALF OF

THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF

DOCKET NO. 2018-364-WS

IN RE: STEPHEN AND BEVERLY NOLLER AND MICHAEL AND NANCY

HALWIG, COMPLAINANTS/PETITIONERS v. DAUFUSKIE ISLAND

UTILITY COMPANY, INCORPORATED, DEFENDANT/RESPONDENT

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is Dawn M. Hipp. My business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina as the Chief Operating Officer of the Office of Regulatory Staff (“ORS”).

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I received my bachelor’s degree in political science from Minnesota State University - Moorhead. Prior to my employment with ORS, I managed the financial, operations and regulatory aspects for an environmental company that provided turn-key hazardous waste consulting services for the United States Department of Defense.

In 2004, I joined ORS as a Program Specialist for the Water and Wastewater Department. I became a Director in 2007 and, in 2018, was promoted to the position of Chief Operating Officer with responsibility for all ORS operational functions within the

following divisions: Energy Policy; Utility Rates and Services; Telecommunications; Consumer Services; and Safety, Transportation, and Emergency Response.

Q. HAVE YOU TESTIFIED BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA (“COMMISSION”)?

A. Yes. I have testified on numerous occasions before the Commission relating to general rate cases, consumer complaints and other proceedings.

Q. WHAT IS THE MISSION OF THE OFFICE OF REGULATORY STAFF?

A. ORS represents the public interest as defined by the South Carolina General Assembly as:

The concerns of the using and consuming public with respect to public utility services, regardless of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high-quality utility services.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to provide the Commission with information regarding the complaint ORS received on November 8, 2016 from Mr. John M. Halwig against Daufuskie Island Utility Company, Inc. (“DIUC” or “Company”) and subsequent interactions between ORS and the attorney for Mr. and Mrs. Halwig and Mr. and Mrs. Noller (collectively the “Customers”). Specifically, my testimony will focus on the following areas:

1. Overview of ORS’s activities to investigate and resolve the complaints between the Customers and DIUC;
2. Overview of the Commission regulations governing the restoration of water and sewer service after a major weather event such as Hurricane Matthew; and,

3. Overview of the impact of the Tax Cuts and Jobs Act (“TCJA”) on Contributions in Aid of Construction (“CIAC”).

1. Overview of the Customers Complaint

Q. WHAT HAVE THE CUSTOMERS REQUESTED THE COMMISSION DETERMINE IN THIS PROCEEDING?

A. Based on my review of the Customers Complaint and Testimony, it appears the Customers request the Commission:

- 1) Require DIUC to restore water and sewer service to the Noller’s residence at 36 Driftwood Cottage Lane and Halwig’s residence at 46 Driftwood Cottage Lane, Daufuskie Island, South Carolina; and
- 2) Require DIUC to reimburse the Customers for all costs paid to replace the water and sewer mains installed to serve 36 and 46 Driftwood Cottage Lane.

Q. HAS WATER AND SEWER SERVICE BEEN RESTORED TO THE CUSTOMERS’ RESIDENCES ON DAUFUSKIE ISLAND?

A. Yes. Based on correspondence in this docket between the Customers and DIUC, I understand that water and sewer service was restored on or around December 21, 2018.

Q. IN 2016, DID DIUC NOTIFY ORS OF DAMAGE TO ITS INFRASTRUCTURE DUE TO HURRICANE MATTHEW?

A. Yes. On November 7, 2016, DIUC advised ORS Consumer Services that water and sewer lines servicing 36 Driftwood Cottage Lane and 46 Driftwood Cottage Lane had been damaged due to Hurricane Matthew. DIUC informed ORS that Mr. Halwig, the

homeowner of 46 Driftwood Cottage Lane, may contact ORS regarding the disruption in service.

Q. DID MR. JOHN M. HALWIG CONTACT ORS CONSUMER SERVICES?

A. Yes. Mr. Halwig filed an informal complaint with ORS on November 8, 2016. *See* Direct Exhibit DMH-1.

Q. DID MR. OR MRS. NOLLER CONTACT ORS OR FILE A COMPLAINT WITH ORS?

A. No.

Q. PLEASE SUMMARIZE THE COMPLAINT ORS RECEIVED FROM MR. HALWIG.

A. Mr. Halwig stated that his property located at 46 Driftwood Cottage Lane had been without water and sewer service since Hurricane Matthew on October 8, 2016 – approximately one month. Mr. Halwig requested ORS provide him with an estimated time in which he could expect restoration of water and sewer service to his residence.

Q. WHAT ACTIONS DID ORS TAKE AFTER IT RECEIVED THE COMPLAINT FROM MR. HALWIG?

A. As is ORS's practice on customer complaints, ORS forwarded the complaint to DIUC and requested a written response. *See* Direct Exhibit DMH-2. In addition, ORS informed Mr. Halwig that ORS would investigate and provide a response to his complaint.

Q. WHAT INFORMATION DID ORS REQUEST DIUC PROVIDE REGARDING MR. HALWIG'S COMPLAINT?

1 **A.** ORS requested DIUC provide details on the work required to restore water and
2 sewer service to the premises and an estimated date the customer could expect service to
3 be restored.

4 **Q. DID ORS RECEIVE A RESPONSE FROM DIUC REGARDING MR. HALWIG'S**
5 **COMPLAINT?**

6 **A.** Yes. On November 14, 2016, DIUC informed ORS that Hurricane Matthew
7 damaged the water and sewer main infrastructure that provided service to Driftwood
8 Cottage Lane and that the surrounding area where the mains were located had been eroded
9 and required repair. DIUC's response indicated that it was not possible to re-install the
10 mains in the same location unless and until the roadway and surrounding area were restored
11 and protected from future erosion. DIUC's response indicated the Company was
12 investigating other options to provide service to Driftwood Cottage Lane.

13 **Q. DID DIUC PROVIDE AN ESTIMATED TIMEFRAME FOR WATER AND**
14 **SEWER RESTORATION TO THE HOMES ON DRIFTWOOD COTTAGE LANE?**

15 **A.** No. In its response to ORS, DIUC indicated it was impossible to provide specific
16 dates for restoration of services using the current rights-of-way as the reinstallation was
17 dependent upon road and ground restoration to be completed by the appropriate municipal
18 authorities.

19 **Q. WHAT INFORMATION WAS PROVIDED TO MR. HALWIG BY ORS IN**
20 **RESPONSE TO MR. HALWIG'S COMPLAINT?**

21 **A.** On December 2, 2016, ORS shared with Mr. Halwig the response received by ORS
22 from DIUC. In addition, ORS informed Mr. Halwig that Commission regulations, which

1 address service interruptions and restoration of service, do not indicate a specific timeframe
2 for restoration of water and sewer service after a hurricane. ORS informed Mr. Halwig of
3 his right to file his complaint at the Commission if he was not satisfied with the results of
4 the ORS investigation. *See* Direct Exhibit DMH-3 for ORS's correspondence with Mr.
5 Halwig.

6 **Q. DID DIUC PROVIDE ORS WITH ADDITIONAL INFORMATION AND**
7 **UPDATES ON THE PROGRESS TO RESTORE SERVICE TO DRIFTWOOD**
8 **COTTAGE LANE?**

9 **A.** Yes. From December 2016 through March 2017, DIUC provided updates regarding
10 DIUC's efforts to restore water and sewer service to Driftwood Cottage Lane. DIUC
11 provided Mr. Halwig an update via letter on January 27, 2017. In March 2017, and based
12 on the updates received from DIUC, it appeared to ORS that Mr. Halwig and DIUC were
13 working cooperatively to facilitate access to 46 Driftwood Cottage Lane through new
14 rights-of-way.

15 **Q. WHEN DID ORS RECEIVE A COPY OF THE CUSTOMER SERVICE**
16 **AGREEMENT BETWEEN THE CUSTOMERS AND DIUC?**

17 **A.** DIUC provided ORS an unexecuted copy of the Customer Service Agreement on
18 January 31, 2018. ORS received an executed copy of the Customer Service Agreement on
19 August 5, 2018.

20 **Q. DOES THE CUSTOMER SERVICE AGREEMENT PROVIDE FOR THE**
21 **INSTALLATION OF WATER AND SEWER INFRASTRUCTURE TO SERVICE**
22 **36 AND 46 DRIFTWOOD COTTAGE LANE?**

1 **A.** Yes. The Customer Service Agreement between the Customers and DIUC details
2 the arrangement between the Customers and DIUC to restore service to Driftwood Cottage
3 Lane. Specifically, DIUC agreed to provide service after the Customers had the mains
4 installed at their cost.

5 **Q. IN 2018, DID THE CUSTOMERS CONTACT ORS REGARDING THE**
6 **RESTORATION OF SERVICE TO DRIFTWOOD COTTAGE LANE?**

7 **A.** Yes. Mr. Jack Smith, an attorney from Nelson Mullins Riley & Scarborough LLP,
8 contacted ORS on August 3, 2018, on behalf of the Customers. Mr. Smith asked ORS
9 Consumer Services questions about DIUC's ability to deny water and sewer service to the
10 Customers due to a dispute between the Customers and DIUC related to payment of CIAC
11 tax obligations and attorney's fees. Mr. Smith followed his telephone call to ORS
12 Consumer Services with an e-mail to ORS on August 5, 2018, which contained detail of
13 his questions and inquired if ORS had to approve restoration of water and sewer service.

14 On August 6, 2018, ORS Consumer Services responded via telephone call to Mr.
15 Smith by informing him the tax question related to CIAC was pending in Commission
16 Docket No. 2017-381-A. ORS informed Mr. Smith that ORS did not have to approve
17 restoration of service. In addition, ORS Consumer Services referred Mr. Smith to
18 Commission regulations 103-535.F and 103-735.F which state water and sewer service
19 may be refused "for failure of the customer to fulfill his contractual obligations for service
20 and/or facilities subject to regulation by the commission."

21 **Q. PLEASE PROVIDE THE DETAILS OF ANY SUBSEQUENT INTERACTIONS**
22 **BETWEEN THE CUSTOMERS AND ORS AFTER AUGUST 6, 2018.**

1 **A.** On behalf of the Customers, Mr. Smith contacted ORS via letter on August 10,
2 2018, with questions regarding whether the proposed 33.24% tax on the CIAC must be
3 paid by the Customers to DIUC and whether DIUC can deny the Customers water and
4 sewer service until the tax obligation on CIAC is paid. *See* Direct Exhibit DMH-4. ORS
5 responded to Mr. Smith in writing on August 15, 2018. *See* Direct Exhibit DMH-5.

6 On September 11, 2018, Mr. Smith contacted ORS via letter with additional
7 questions as to which party (the Customers or DIUC) is financially responsible for
8 replacement of mains and associated legal fees and the applicability of Commission
9 regulations 103-540 and 103-740. *See* Direct Exhibit DMH-6. ORS forwarded Mr. Smith's
10 inquiry to DIUC for a response on September 25, 2018. DIUC provided a written response
11 to ORS on October 4, 2018. *See* Direct Exhibit DMH-7. In addition, ORS received a copy
12 of the South Carolina Department of Health and Environmental Control permit to operate
13 on October 10, 2018. ORS provided Mr. Smith with the DIUC response and an update on
14 the restoration of service and the permit to operate on October 22 and 23, 2018 (via e-mail).
15 On November 16, 2018, the Customers filed a formal Complaint with the Commission.

16 **Q. DID ORS OFFER TO PROVIDE INFORMAL MEDIATION SERVICES TO THE**
17 **CUSTOMERS AND DIUC?**

18 **A.** Yes. On December 18, 2018, counsel for ORS offered to the attorneys for the
19 Customers and DIUC an opportunity for informal mediation. The ORS offer for mediation
20 was not accepted by either the Customers or DIUC.

21 **2. Commission Regulations Related to Restoration of Water and Sewer Service**

Q. WHAT COMMISSION REGULATIONS DID ORS APPLY TO ITS INVESTIGATIONS OF THE HALWIG'S COMPLAINT IN 2016?

A. During the ORS investigation of Mr. Halwig's complaint in 2016, ORS reviewed and applied the following Commission regulations related to sewer service:

103-514 Interruption of Service/Violation of Rules.

A. Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division thereof, or any single community or an important division of a community, including a statement of the time, duration, and cause of any such interruption. The commission and the ORS should be notified of any interruption lasting more than six hours as soon as it comes to the attention of the utility and a complete report made after restoration of service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers.

103-540 System Which Utility Must Maintain.

Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions of all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery from systems or facilities owned by the customer.

103-555 Service Pipe Connections.

A. Utility's Service Pipe—The utility shall install and maintain that portion of the service pipe from the main to the boundary line of the property being served, public road, or street under which such main may be located. The connection of the service pipe to the main must be made using appropriate wyes, saddles, or other acceptable fittings.

B. Customer's Service Pipe—The customer shall install and maintain that portion of the service pipe from the end of the utility's service pipe into the premises served. The portion of the service pipe installed and maintained by the customer shall conform to all reasonable rules and regulations of the utility. It must be constructed of approved materials and must be installed and maintained in accordance with accepted good practice and in conformance with applicable codes of governmental regulations. Each customer's service pipe shall serve no more than one customer.

1 *C. Restrictions on Installation—A sewer service pipe shall not be laid in the*
2 *same trench with water pipe unless the water service pipe is laid on a shelf*
3 *on the side of the trench, not less than eighteen (18) inches above and not*
4 *less than eighteen (18) inches horizontally away from the sewer pipe.*

5 *D. Inspection—If a governmental agency requires an inspection of the*
6 *customer's plumbing, the utility shall not connect the customer's service*
7 *pipe until it receives a notice from that governmental agency certifying that*
8 *the customer's plumbing conforms to those standards set by the agency.*

9 *E. Service Pipe Connection—The utility shall be responsible for providing*
10 *the location for the connection of the customer's service pipe to the utility's*
11 *service pipe or the utility's main, whichever is applicable, at the utility's*
12 *expense, and at no expense to the customer. The utility shall have the right*
13 *to inspect the service connection to the utility service line at the time of the*
14 *completion of connection, and the service may not be provided to such*
15 *connection until the utility inspects the service line.*

16
17 ***103-570 Quality of Service.***

18 *A. Each utility shall provide sewerage service insofar as practicable free*
19 *from objectionable odors. Each utility must have a permit as required by*
20 *the health laws of the State of South Carolina, and shall comply with all*
21 *laws and regulations of State and local agencies pertaining to sewerage*
22 *service.*

23 *B. It shall be the obligation of each utility dependent upon its ability to*
24 *procure and retain suitable facilities and rights for the construction and*
25 *maintenance of the necessary system to furnish adequate sewerage service*
26 *to customers in the area or territory in which it operates. Such service is to*
27 *be rendered according to lawfully established and approved rates and*
28 *charges for the specific territory involved.*

29
30 ***103-571 Interruptions of Service.***

31 *A. Each utility shall make reasonable efforts to avoid interruptions of*
32 *service, but when such interruptions occur, service shall be re-established*
33 *within the shortest time practicable, consistent with considerations of*
34 *safety.*

35
36 During the ORS investigation of Mr. Halwig's complaint in 2016, ORS reviewed

37 and applied the following Commission regulations related to water service:

38 ***103-714 Interruption of Service.***

39 *A. Each utility shall keep a record of any condition resulting in any*
40 *interruption of service affecting its entire system or major division thereof,*
41 *or any single community or an important division of a community, including*
42 *a statement of the time, duration, and cause of any such interruption. The*

commission and the ORS should be notified of any interruption lasting more than six hours as soon as it comes to the attention of the utility and a complete report will be made after restoration of service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers, and will be made at a time that will not cause unreasonable inconvenience to customers.

103-740 System Which Utility Must Maintain.

Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery into systems or facilities owned by the customer.

103-755 Temporary Service.

When the utility renders temporary service to a customer, it may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized.

103-771 Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be re-established within the shortest time practicable, consistent with considerations of safety.

Q. DID ORS FIND ANY PRIOR COMMISSION DECISIONS ON THE ISSUES IDENTIFIED IN THE CUSTOMERS' COMPLAINT?

A. No. ORS was unable to locate a Commission decision on a similar complaint.

3. Tax Cuts and Jobs Act impact on Contributions in Aid of Construction

Q. PLEASE EXPLAIN HOW THE TAX CUTS AND JOBS ACT OF 2017 IMPACTS CONTRIBUTIONS IN AID OF CONSTRUCTION.

A. Prior to January 1, 2018, CIAC for investor-owned utility water and sewer infrastructure was exempt from the calculation of a utility's gross income and, as a result,

CIAC was not considered taxable income. The TCJA removed this exemption and, effective January 1, 2018, CIAC is taxable to the investor-owned utilities, such as DIUC.

Q. HAS THE COMMISSION PROVIDED GUIDANCE TO INVESTOR-OWNED WATER AND SEWER UTILITIES ON HOW THE TAX COSTS ASSOCIATED WITH CIAC SHOULD BE COLLECTED?

A. Yes. In the late 1980's, investor-owned water and sewer utilities were faced with a similar federal income tax law change in the Tax Reform Act of 1986 which designated CIAC as taxable income. The Commission, in Order No. 1988-237, provided investor-owned electric, natural gas, water and sewer utilities four different methods to collect the income tax on CIAC:

1) The Net Present Value method – the difference between the tax cost of CIAC and the future tax benefits through depreciation of the CIAC property is collected from the contributor.

2) The Full Gross-Up method - the gross tax cost of the CIAC is collected from the contributor and is amortized over the life of the contributed property.

3) The Partial Gross-Up method - part but not all the tax is collected from the contributor.

4) The No Gross-Up method – the investor-owned utility pays all of the income tax cost associated with CIAC and none of the tax cost is recovered from the contributor.

Q. DOES THE CUSTOMER SERVICE AGREEMENT IDENTIFY HOW INCOME TAX COSTS ON CIAC SHOULD BE COLLECTED?

1 **A.** No. The Customer Service Agreement signed by the Customers and DIUC does
2 not include specific details regarding the collection of income tax costs associated the
3 CIAC paid by the Customers.

4 **Q. DID DIUC REQUEST TO RECOVER THE INCOME TAX COSTS FROM THE**
5 **CUSTOMERS?**

6 **A.** Yes. Attached to the Customers complaint is a document identified as Addendum
7 to Customer Service Agreement (“Addendum”). The Addendum references an income tax
8 obligation of \$37,545.93, which DIUC states it will incur under the TCJA. The Addendum
9 is not executed by the Customers or DIUC. Based on my review of the Addendum, it
10 appears DIUC proposes to utilize the Full Gross-Up method to collect the income tax costs
11 from the Customers. DIUC’s current rate schedule approved by the Commission does not
12 contain a separate provision to allow DIUC to charge developers or its customers for this
13 income tax cost on CIAC.

14 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

15 **A.** Yes.



South Carolina Office of Regulatory Staff
1401 Main St. Suite 900 Columbia, SC 29201 Phone: 800-922-1531 Fax: 803-737-4750

Consumer Complaint/Inquiry Form

Please complete this form, save it to your computer and then send it to complaints@regstaff.sc.gov. A member of the SC Office of Regulatory Staff will be in contact with you to address your complaint or inquiry.

If your utility service is scheduled for disconnection, please call the ORS at 1-800-922-1531.

Please fill out all fields marked with an asterisk *, as they are required.

Failure to complete required fields may cause a delay in responding to you.

Name*	<input type="text" value="John M. Halwig"/>	Date*	<input type="text" value="11/8/16"/>
Address*	<input type="text" value="46 Driftwood Cottage Lane"/>		
City*	<input type="text" value="Daufuskie Island"/>	ZIP Code*	<input type="text" value="29915"/>
Phone Number*	<input type="text" value="(404) 406-0416"/>	Email	<input type="text" value="JMHalwigMD@aol.com"/>
What utility/company is your complaint regarding?*	<input type="text" value="Daufuskie Island Utility Company"/>		
What is your account number?	<input type="text"/>		

Are you an authorized contact person for the account?* ☒ Yes ☐ No

Please outline your complaint below. Be brief as the field is limited to 1000 characters. Further detail, if needed, can be gathered when a member of the ORS staff contacts you. "

I have requested specific information regarding the status of the Driftwood Cottage Lane water/sewer service and when service will be restored on 10/20/16 and again on 11/1/16. I have been advised that an outside contractor was retained to fix the sewer service but that there is not a specific date service will be restored. We have been without water/sewer service since Hurricane Matthew on 10/8/16 and have not been able to stay in the home.

To save or print the form, click on the Save/Print Form button below.

To save the form, choose Adobe PDF as your printer, then click print. This will bring up a menu asking where you want to save the document to your computer. Once you have saved the form, you can submit it through [email](mailto:complaints@regstaff.sc.gov) or print it and fax or mail it to the ORS using the information listed at the top of this page.

Campbell, Chad

Subject: FW: Complaint received at ORS (John Halwig)

From: Campbell, Chad [mailto:ccampbe@regstaff.sc.gov]

Sent: Tuesday, November 08, 2016 4:23 PM

To: Guastella Admin <admin@guastella.com>

Cc: Hipp, Dawn <dhipp@regstaff.sc.gov>; Johnson, Sarah <sjohnson@regstaff.sc.gov>; Sharpe, April <asharpe@regstaff.sc.gov>; Morgan, Willie <wmorgan@regstaff.sc.gov>; mlg@guastella.com

Subject: Complaint received at ORS (John Halwig)

Carolyn,

The attached correspondence is sent pursuant to the duties and responsibilities of the Office of Regulatory Staff ("ORS") to investigate complaints and inquiries affecting the public interest as set forth in S.C. Code Ann. § 58-4-50 (2004 S.C. Act 175). The ORS has received a complaint from John Halwig at 46 Driftwood Cottage Lane, Daufuskie Island, S.C.

The ORS requests Daufuskie Island Utility Company's ("DIUC" or "Company") assistance to investigate and respond to the consumer's concerns regarding interruption of water and sewer services to his property. Mr. Halwig is requesting specific information regarding the restoral time of water and sewer services.

I understand from your e-mail to me on Monday, November 7, 2016 that there are two DIUC customers with no water or sewer service at this time. (Mr. Halwig at 46 Driftwood Cottage Lane and Mr. Noller at 36 Driftwood Cottage Lane). According to DIUC, the water and sewer lines broke due to Hurricane Matthew. According to your e-mail, the Company indicates they are working on a plan on how to run the lines due to the excessive erosion.

To investigate the consumer's complaint, ORS requests DIUC provide the following:

1. Specific details on the work that is required to restore water and sewer service to 46 Driftwood Cottage Lane and 36 Driftwood Cottage Lane.
2. Estimated date for restoral of water and sewer service.

Be advised, the ORS is reviewing the requirements in the following PSC Regulations regarding their applicability to the water and sewer interruptions at 46 Driftwood Cottage Lane and 36 Driftwood Cottage Lane.

103-714 Interruption of Service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers, and will be made at a time that will not cause unreasonable inconvenience to customers.

Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be re-established within the shortest time practicable, consistent with considerations of safety.

**Office of Regulatory Staff
Daufuskie Island Utility Company, Inc.
Docket No. 2018-364-WS**

Direct Exhibit DMH-2

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Please provide response on or before **Monday, November 14, 2016.**

Should you have any questions, contact me via e-mail at ccampbe@regstaff.sc.gov or at 803-737-5194.

Thank You
Chad Campbell
Consumer Services
Office of Regulatory Staff



April B. Sharpe
Manager of Consumer Services

December 2, 2016

Dr. John Halwig

Atlanta, Georgia 30309

RE: ORS File 2016-W-1682

Dear Dr. Halwig:

This letter is in response to your complaint filed at the Office of Regulatory Staff ("ORS") regarding Daufuskie Island Utility Company ("DIUC" or "Company"). In your complaint you state your property at 46 Driftwood Cottage Lane, Daufuskie Island, S.C. has been without water and sewer service since October 8, 2016 due to Hurricane Matthew. You are requesting DIUC provide a specific date that water and sewer service will be restored to the property.

The ORS contacted DIUC for assistance to investigate and respond to your complaint. According to DIUC, due to Hurricane Matthew, severe erosion occurred causing a wash out of the road and surrounding areas where the water and sewer mains were located. The water and sewer mains were destroyed and rendered unusable. DIUC states that the road and surrounding area will need to be restored and adequately protected from future erosion before the water and sewer mains can be reconstructed to provide service to this area.

DIUC states they are currently exploring other means of access to serve your property but have not obtained rights of way necessary to construct water and sewer infrastructure to serve your property. The Company states a specific date for restoration of water and sewer service to your property cannot be provided at this time.

ORS conducted a conference call with a representative from DIUC on December 1, 2016 and advised the Company of the following Public Service Commission ("PSC") Rules and Regulations:

PSC Wastewater and Water Regulations 103-540 and 103-740 state "Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate

and maintain in safe, efficient and proper conditions of all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery from systems or facilities owned by the customer."

PSC Wastewater Regulation 103-555 (e), states "The utility shall be responsible for providing the location for the connection of the customer's service pipe to the utility's service pipe or the utility's main, whichever is applicable, at the utility's expense, and at no expense to the customer."

PSC Wastewater Regulation 103-570 (B) states "It shall be the obligation of each utility dependent upon its ability to procure and retain suitable facilities and rights for the construction and maintenance of the necessary system to furnish adequate sewerage service to customers in the area or territory in which it operates."

PSC Water Regulation 103-755, "When the utility renders temporary service to a customer, it may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized."

Based on ORS's review, the Public Service Commission of South Carolina's rules and regulations do not identify a specific time period for water and sewer service restoration. ORS will maintain contact with DIUC in regard to their efforts to restore water and sewer service to your property.

If you are not satisfied with the response from the ORS's investigation, you have the right to file your complaint with the PSC. To file a complaint with the PSC, you must complete the PSC's complaint form available online at www.psc.sc.gov. The completed form must then be mailed to the PSC at 101 Executive Center Drive, Suite 100, Columbia, S.C. 29210

If you have any questions, please contact me at 1-800-922-1531, extension 75194, or via e-mail at ccampbe@regstaff.sc.gov.

Sincerely,



Chad Campbell
Consumer Services
Office of Regulatory Staff

cc: Mike Guastella, Guastella and Associates (VIA E-MAIL)

Dawn Hipp, ORS Director, Utility Rates and Services

Sarah Johnson, ORS, Director, Utility Services

Willie Morgan, ORS, Director, Utility Rates

April Sharpe, ORS, Manager, Consumer Services



Newman Jackson Smith
T 843.534.4309 F 843.534.4350
jack.smith@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

151 Meeting Street | Sixth Floor
Charleston, SC 29401-2239
T 843.853.5200 F 843.722.8700
nelsonmullins.com

Via Electronic and US Mail

August 10, 2018

Mr. Chad Campbell
Supervisor, Consumer Services
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

RE: ORS File No. 2016-W-1682
Daufuskie Island Utility Company (DIUC)
Michael and Nancy Halwig
NMRS File No.: 54041/09000
Stephan and Beverly Noller
NMRS File No.: 055561/09000

Dear Chad:

I appreciate the opportunity to speak with you and Mr. Morgan earlier this week concerning the Daufuskie Island Utility Company and restoration of water and sewer services to the service lines that currently has two homes tapped into it on Driftwood Cottage Lane, in the Melrose Plantation development on Daufuskie Island, South Carolina. The two families, the Halwigs and the Nollers, hired an engineer and had the plans prepared and permitted for the replacement of the connection lines between the lines serving customers on Martinangel Lane and the lines serving customers on Driftwood Cottage Lane. The replacement line crosses a golf course, from which owner the Halwigs and Nollers negotiated for and obtained an easement for the replacement lines on behalf of DIUC. They also hired a contractor that installed the replacement lines. We understand the costs paid by these families will be considered a Contribution in Aid of Construction to DIUC. The tax issue has been raised by DIUC, which has claimed the proposed tax is due immediately to DIUC pursuant to the ORS petition filed in December of 2017 (Docket Number 2017-381-A). The Halwigs and Nollers ask whether the proposed 33.24% tax on the Contribution in Aid of Construction costs must be paid to DIUC at this time and whether it can withhold service from them pending such payment.

In addition, we understand DIUC desires to have the Commission determine whether the costs of the Contribution in Aid of Construction and the related tax on that benefit may be included in its rate structure or not prior to accepting the lines and allowing service to be

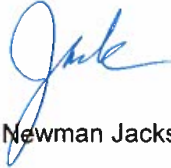
Mr. Chad Campbell
August 10, 2018
Page 2

restored. Based on my discussion with you we understand that the request to the Commission on how to treat the CIAC could be made by DIUC at any time, and could already have been made before installation of the lines. It is our understanding such decision on treatment of the CIAC in DIUC's finances is not a decision necessary for service to be restored with the replacement lines planned and installed by these families. We request confirmation that these understandings are correct.

The Halwigs and Nollers have diligently worked to have the DIUC lines replaced to service the lines adjacent to these current customers' homes so these families may have the use of them once again following the DIUC service interruption caused by the destruction of a portion of the lines in the part of Driftwood Cottage Lane that was washed away by Hurricane Matthew in October 2016. In light of that, the Halwigs and Nollers would request the ORS or PSC to take any action that it can to compel the DIUC to turn on such service and not allow DIUC to deny service to its customers pending a decision on these issues by the ORS or PSC.

With best regards, I am

Very truly yours,



Newman Jackson Smith

NJS:db

cc: Mr. Willie Morgan, Utilities Rates & Services

Campbell, Chad

Subject: FW: Follow-up to 8-15-2018 call regarding DIUC/CIAC
Attachments: 20180810 LTRT Chad Campbell.pdf

From: Campbell, Chad
Sent: Friday, August 17, 2018 4:00 PM
To: 'Jack Smith' <jack.smith@nelsonmullins.com>
Cc: Johnson, Sarah <sjohnson@regstaff.sc.gov>
Subject: Follow-up to 8-15-2018 call regarding DIUC/CIAC

Good Afternoon Jack:

This is a follow-up to the call on Wednesday, August 15, 2018 responding to the attached correspondence.

The attached correspondence asks whether Daufuskie Island Utility Company, ("DIUC" or "Company") can withhold service to the Halwig and Noller properties until a tax on contribution in aid of construction (CIAC) costs are paid to the Company.

As discussed in the call, the Company is required to remit taxes on contribution in aid of construction to the federal government. The ability to recover these costs is pending before the Public Service Commission (PSC) in Docket 2017-381-A.

Regarding the Company denying service to the Halwig and Noller properties before a tax on the CIAC is paid to the Company, PSC Regulation 103-735 F. states service may be refused or discontinued for failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the Commission.

If you have any questions, please contact me via e-mail or direct line 803-737-5194.

Sincerely,

Chad Campbell
Consumer Services
Office of Regulatory Staff



E. Bart Daniel
T 843.534.4123
bart.daniel@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

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nelsonmullins.com

September 11, 2018

Via Electronic and US Mail

Mr. Chad Campbell
Supervisor, Consumer Services
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201

RE: ORS File No. 2016-W-1682
Daufuskie Island Utility Company, Inc. (DIUC)
Michael and Nancy Halwig
NMRS File No.: 54041/09000
Stephan and Beverly Noller
NMRS File No.: 055561/09000

Dear Chad:

Thank you very much for your prior communications with me concerning the situation on Daufuskie Island for the Halwigs and Nollers. The Daufuskie Island Utility Company, Inc. has required certain actions or payments by the Halwigs and Nollers, as we have discussed. This letter specifically requests information on the interpretation of the current rate structure for and authority of DIUC concerning the costs associated with the replacement of some of its water and sewer mains. Irrespective of whether there is any contract at issue, does the current rate structure, and the rate structure currently on appeal by DIUC, (1) preclude or (2) allow for the cost of replacement of any its mains to be required to be paid by some but not all of its customers? Asked another way, is the payment of the cost of replacement of any of its water and sewer infrastructure required to be paid by customers in the area affected by the replacement, or is it allowable or understood in its rate structure that the replacements of its infrastructure for water and sewer would be general cost attributable to all rate payers? Please indicate if there is a different answer depending upon whether the replacement is needed due to damage or destruction versus breakdown.

Prior to making a decision concerning filing a complaint regarding the situation we have discussed, we seek to understand whether the statement used by DIUC as basis for requiring the Halwigs and Nollers to pay for the cost of replacement has a solid foundation within the ORS regulations, PSC decisions, or its approved rate structure. The statement

Mr. Chad Campbell
September 11, 2018
Page 2

that has been continually made as a basis for requiring the Halwigs and Nollers to pay for the replacement mains under Driftwood Cottage Lane is that, "In order to protect other customers from sharing in the cost responsibility, it would be the responsibility of the affected customers to have the project mains installed in accordance with the plans." The decision on whether to take any action concerning this situation could be affected by the validity of the foundation of this statement by DIUC as a basis for requiring the full payment of all costs of the equipment, installation, permitting, engineering and other fees associated with the replacement mains to be paid by these customers.

Another question is whether or not the legal fees which DIUC is incurring in its filing of a rate case with the PSC, and with its multiple appeals of decisions by the PSC, are or can be charged to its customers as part of its typical administrative costs. The answer to this question is relative because DIUC has also demanded that the Halwigs and Nollers pay for DIUC's legal fees in regard to review of the documents for an easement in favor of DIUC from a third party property owner and other related documents, as well as in regard to all discussions with its attorney regarding the demand for payment itself.

Finally, the regulations for water and sewer utilities include the following:

Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery into systems or facilities owned by the customer.

See R.103-540 and 740.

Are these two regulatory requirements enforceable by the ORS, PSC or the courts? Has the PSC relieved DIUC, or any other utility, from the requirement stated in these regulations? If these regulations have been interpreted by the ORS or PSC, I would appreciate that information.

I appreciate the time and attention you have provided me on behalf of the Halwigs and Nollers, and look forward to your reply. Please do not hesitate to call me if you would prefer to discuss this prior to your response.

With best regards, I am

Very truly yours,



Newman Jackson Smith

NJS:et
cc: David Butler, Esquire

Daufuskie Island Utility Company, Inc.

725 N. Hwy A1A, Suite B103, Jupiter, FL 33477
888-635-7878

BY EMAIL

October 4, 2018

Mr. Chad Campbell
Supervisor, Consumer Services
1401 Main Street, Suite 900
Columbia, SC 29201

RE: Response to Inquiry

Mr. Campbell,

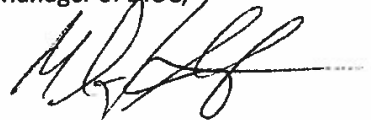
This letter is in regard to your request by email for assistance in responding to a letter from Jack Smith, dated September 11, 2018. In brief, the letter is an inquiry regarding the cost responsibility of new service mains for 36 & 46 Driftwood Cottage Ln. The original service mains along with the road under which they were installed was destroyed twice by tidal and storm surges. A new road was not allowed to be built by the Melrose POA, due to DHEC not approving the construction. This left DIUC without a location to install mains. The details of this have been discussed by letter, email and by phone, with all involved parties, including but not limited to the customers, DIUC staff, members of ORS, DHEC and outside legal representatives.

In a previous email, I included a signed 'Customer Service Agreement'. This agreement was signed by Dr. Halwig and Bev Noller, the current customers at 36 & 46 Driftwood Cottage Ln. Mr. Jack Smith is the current legal representative of these customers, and provided DIUC with the signed 'Customer Service Agreement'. I've also included email correspondence between Mr. Smith and myself, in which there is no disagreement whatsoever with the cost of the construction of these mains to be the customers responsibility, as stated in the 'Customer Service Agreement' Item 1. To the best of my understanding, the newly constructed mains have been completed except for a blow off valve which I believe will be installed next week, completing the construction. It is also my understanding that the customers have already paid the contractors for this construction.

DIUC is currently waiting for the customers to provide the necessary documentation, as stated in the 'Customer Service Agreement', allowing the Utility to properly book the new facilities and take ownership through Contributions in Aid of Construction (CIAC) and submit to the local DHEC office 'an operation approval request' allowing DIUC to provide service to the customers, through the newly installed mains. This information has been provided to the office

of Mr. Jack Smith multiple times by DIUC's legal representation. Mr. Smith's inquiry is another delay in providing service to the customers through newly installed mains.

Guastella Associates, LLC
Manager of DIUC,

A handwritten signature in black ink, appearing to read 'Mike J. Guastella', is written over a horizontal line.

Mike J. Guastella
Vice President-Operations